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of marriage to second wife, since such charge would have been on the facts.

Error to Circuit Court, Wythe County.

L. G. Corvin was convicted of bigamy, and he brings error. Affirmed.

W. S. Poage, S. B. Campbell, and E. Lee Trinkle, all of Wytheville, for appellant.

John R. Saunders, Atty. Gen., J. D. Hank, Jr., Asst. Atty. Gen., and Leon M. Bazile, Second Atty. Gen., for the Commonwealth.

ZIGLER *v.* SPRINKEL, City Treasurer.

Sept. 29, 1921.

[108 S. E. 656.]

1. Mandamus (§ 148*)—Petitioner's Interest in Enforcement of Laws Sufficient.—When the performance of a public duty is sought to be coerced, petitioner's interest, as a citizen, in the enforcement of the laws, is sufficient to entitle him to proceed in mandamus.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 541.]

2. Elections (§ 83*)—Treasurer's List Must Include All Voters Who Paid Poll Taxes Assessed against Them "during" Any or All the Three Years Preceding That of Election.—In view of Const. 1902, § 21, giving one the right to vote if he has paid all poll taxes assessed against him "during the three years next preceding," the city treasurer, under § 38, and Code 1919, § 109, requiring him to file a list of all who have paid the poll taxes required by the Constitution "during the three years next preceding," must place on such list the names of all who have paid the taxes required as a prerequisite to their right to vote at the ensuing election, whether that be the payment of such taxes for one, two, or all three years, § 38 merely furnishing the evidence of the discharge of the requirements imposed by § 21, the word "during" in which means, not "throughout the continuance of," but "in the time of," nor is the right of persons coming into a city from another city within such period to inclusion in the list affected by Code 1919, § 110, entitling them to have their names entered on application to the court, though not entitled to vote on the treasurer's certificate under Code 1919, § 115.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, During.]

Error to Circuit Court, Rockingham County.

Petition by E. A. Zigler for a writ of mandamus against H.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Sprinkel, Treasurer of City of Harrisonburg. Writ denied, and petitioner brings error and supersedeas. Mandamus awarded.

John Paul, John W. Morrison, and Chas. A. Hammer, all of Harrisonburg, for plaintiff in error.

H. W. Bertram, of Harrisonburg, for defendant in error.

VIRGINIA WHOLESALE CO., Inc., *v.* TOWN
OF APPALACHIA et al.

Sept. 22, 1921.

[108 S. E. 660.]

Municipal Corporations (§ 966 (1)*)—Towns Held to Have Statutory Authority to Impose Ad Valorem Town Tax on Capital of Merchants.—Code 1904, § 1043, as amended and reenacted by Acts 1915, c. 111, not having been affected in that respect by the Segregation Act of 1915, held to authorize a town to impose a local ad valorem property tax on the capital of merchants employed in the town; such capital being intangible personal property taxable under the general power of taxation.

Error to Circuit Court, Wise County.

Proceeding by the Virginia Wholesale Company, Inc., against the Town of Appalachia and others for refunding of an ad valorem tax and penalty. An order denying relief was entered, and plaintiff brings error. Affirmed.

Bullitt & Chalkley, of Big Stone Gap, for plaintiff in error.

Morton & Parker, of Appalachia, for defendant in error.

PHLEGAR'S EX'R *v.* SMITH et al.

Sept. 22, 1921.

[108 S. E. 662.]

1. Limitation of Actions (§ 44 (5)*)—Action to Enforce Trust Deed Securing Bond for Loan Barred 20 Years after Maturity of Bond.—A suit to enforce a trust deed securing a bond for payment in five years of a loan of a trust fund was barred 20 years after maturity of the bond, though the maker was also the assignee of the interest on such fund during the lifetime of his assignor.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 403, 405.]

2. Life Estates (§ 21*)—Holder of Life Estate in Interest on Fund from Sale of Lands Cannot Set Off Value Thereof in Action on Trust Deed Securing Bond for Borrowed Principal.—An assignee of the interest for assignor's lifetime on a trust fund, realized from the sale

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.